

**OPENING REMARKS OF THE HONORABLE RUBÉN HINOJOSA  
ON  
H.R. 1474, THE CHECK CLEARING FOR THE 21<sup>ST</sup> CENTURY ACT  
HOUSE FINANCIAL SERVICES COMMITTEE  
FINANCIAL INSTITUTIONS AND CONSUMER CREDIT SUBCOMMITTEE  
APRIL 8, 2003**

Chairman Bachus and Ranking Member Sanders,

I want to thank you for holding this important and timely hearing on H.R. 1474, the Check Clearing for the 21<sup>st</sup> Century Act introduced by Congresswoman Melissa Hart and Congressman Ford. I cosponsored virtually identical legislation last Congress sponsored by Congressman Ford and Congressman Ferguson, and I am glad to be an original cosponsor of H.R. 1474 this year.

Under current law, a bank may clear checks electronically only if it has entered into an agreement with another bank. H.R. 1474 would facilitate the use of check truncation by removing this requirement.

This legislation authorizes, but does not mandate, banks to create an electronic image of a check, which can then be sent to another bank, eliminating the physical transfer of the original check. Recognizing that not all banks have the ability to accept electronic transmission of a check, H.R. 1474 authorizes the creation of substitute checks for payment. This substitute check would be used in place of the original paper check, and it would be a negotiable instrument. Banks that create an electronic check will be able to create a substitute check and use that for presentment to a bank that has not upgraded its system to accept electronic checks.

This legislation recognizes that there are several levels of consumer protections already. However, the bill would establish warranty and indemnification provisions to protect against any losses involved with the use of substitute checks. A consumer could make a written claim for re-credit within thirty days of the date of receiving a periodic statement or the date the substitute check is made available to the customer, whichever date is later. The customer could also submit a warranty claim on the substitute check if the production of the original check or better copy of the original check is necessary to determine the validity of a disputed claim. To its credit, H.R. 1474 would require banks to provide to existing customers and new account holders a brief notice about the use of substitute checks and a description of the consumer's right to re-credit for improper payment.

There are many more provisions of this legislation which I would like to point out, but I will refrain from doing so in order to hear the testimony of our witnesses. It is my understanding that the majority of the financial services associations support the legislation, but some consumer groups have some concerns with certain provisions of the bill. I look forward to working with both industry and the consumer groups to resolve any differences and to pass this bill this session of Congress.